

Senate Study Bill 3053 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON SODDERS)

A BILL FOR

1 An Act relating to the statute of repose for medical
2 malpractice claims.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 614.1, subsection 9, paragraph a, Code
2 2016, is amended to read as follows:

3 a. Except as provided in paragraph "b", those founded on
4 injuries to the person or wrongful death against any physician
5 and surgeon, osteopathic physician and surgeon, dentist,
6 podiatric physician, optometrist, pharmacist, chiropractor,
7 physician assistant, or nurse, licensed under chapter 147, or a
8 hospital licensed under chapter 135B, arising out of patient
9 care, within two years after the date on which the claimant
10 knew, or through the use of reasonable diligence should have
11 known, or received notice in writing of the existence of, the
12 injury or death for which damages are sought in the action,
13 whichever of the dates occurs first, ~~but.~~ However, in no
14 event shall any action be brought more than six years after
15 the date on which occurred the act or omission or occurrence
16 alleged in the action to have been the cause of the injury
17 or death unless a foreign object unintentionally left in the
18 body caused the injury or death or the cause of the injury or
19 death could have been avoided or minimized if the physician and
20 surgeon, osteopathic physician and surgeon, dentist, podiatric
21 physician, optometrist, pharmacist, chiropractor, physician
22 assistant, or nurse, licensed under chapter 147, or hospital
23 licensed under chapter 135B, had properly interpreted the
24 patient's test results and had communicated those results to
25 the patient in a timely manner.

26 EXPLANATION

27 The inclusion of this explanation does not constitute agreement with
28 the explanation's substance by the members of the general assembly.

29 This bill relates to the statute of repose for medical
30 malpractice claims.

31 Under current law, medical malpractice claims are subject
32 to a two-year statute of limitations and six-year statute of
33 repose. A statute of limitations bars the right to bring an
34 accrued action after a specified time, whereas a statute of
35 repose terminates any right of action after a specified time,

1 regardless of whether or not an injury has yet occurred.

2 Specifically, current Code section 614.1(9)(a) requires
3 that medical malpractice claims be brought within two years
4 after the date on which the claimant knew, should have known
5 through the use of reasonable diligence, or received notice
6 in writing of the existence of, the injury or death for which
7 damages are sought in the action, whichever of the dates occurs
8 first. Current Code section 614.1(9)(a) bars actions brought
9 more than six years after the date of the act or omission
10 alleged to have been the cause of the injury or death, but
11 exempts from the statute of repose cases where a foreign object
12 was unintentionally left in the body and caused the injury or
13 death.

14 The bill provides a second exception to the six-year statute
15 of repose. Under the bill, if the cause of the injury or
16 death could have been avoided or minimized had the physician
17 and surgeon, osteopathic physician and surgeon, dentist,
18 podiatric physician, optometrist, pharmacist, chiropractor,
19 physician assistant, nurse, or hospital properly interpreted
20 the patient's test results and communicated those results to
21 the patient in a timely manner, the six-year statute of repose
22 does not apply.